

Adopted	Rejected
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## COMMITTEE REPORT

YES:	8
NO:	5

### MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred House Bill 1413, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

1       Page 1, between the enacting clause and line 1, begin a new  
2       paragraph and insert:  
3       "SECTION 1. IC 22-3-3-4 IS AMENDED TO READ AS  
4       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) After an injury  
5       and prior to an adjudication of permanent impairment, the employer  
6       shall furnish or cause to be furnished, free of charge to the employee,  
7       an attending physician for the treatment of his injuries, and in addition  
8       thereto such surgical, hospital and nursing services and supplies as the  
9       attending physician or the worker's compensation board may deem  
10      necessary. If the employee is requested or required by the employer to  
11      submit to treatment outside the county of employment, the employer  
12      shall also pay the reasonable expense of travel, food, and lodging  
13      necessary during the travel, but not to exceed the amount paid at the  
14      time of the travel by the state to its employees under the state travel  
15      policies and procedures established by the department of  
16      administration and approved by the state budget agency.

(b) During the period of temporary total disability resulting from the injury, the employer shall furnish the physician services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by the physician and services and supplies be furnished by or on behalf of the employer as the worker's compensation board may deem reasonably necessary.

**(c) No representative of the employer or insurance carrier, including case managers or rehabilitation nurses, may be present at any treatment of an injured employee without the express written consent of the employee and the treating medical personnel. At the time of any medical treatment that a representative of the employer wishes to attend, the representative of the employer shall inform the injured employee and treating medical personnel that their written consent is required before the attendance of the employer's representative. The employee's compensation and benefits may not be jeopardized in any way due to the employer's failure or refusal to complete a written waiver allowing the attendance of the employer's representative. The employer's representative may not in any way cause the employee to believe that the employee's compensation and benefits will be terminated if the employee fails or refuses to complete a written waiver allowing the attendance of the employer's representative. The written waivers shall be executed on forms prescribed by the board.**

~~(c)~~ (d) After an employee's injury has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27 of this chapter, the employer may continue to furnish a physician or surgeon and other medical services and supplies, and the worker's compensation board may within the statutory period for review as provided in section 27 of this chapter, on a proper application of either party, require that treatment by that physician and other medical services and supplies be furnished by and on behalf of the employer as the worker's compensation board may deem necessary to limit or reduce the amount and extent of the employee's impairment. The refusal of the employee to accept such services and supplies, when provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of the refusal,

and his right to prosecute any proceeding under IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the employee's refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of the impairment, disfigurement, or death which is the result of the failure of the employee to accept the treatment, services, and supplies required under this section. However, an employer may at any time permit an employee to have treatment for his injuries by spiritual means or prayer in lieu of the physician or surgeon and other medical services and supplies required under this section.

~~(d)~~ (e) If, because of an emergency, or because of the employer's failure to provide an attending physician or surgical, hospital, or nursing services and supplies, or treatment by spiritual means or prayer, as required by this section, or because of any other good reason, a physician other than that provided by the employer treats the injured employee during the period of the employee's temporary total disability, or necessary and proper surgical, hospital, or nursing services and supplies are procured within the period, the reasonable cost of those services and supplies shall, subject to the approval of the worker's compensation board, be paid by the employer.

~~(e)~~ (f) Regardless of when it occurs, where a compensable injury results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable injury pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

~~(f)~~ (g) If an accident arising out of and in the course of employment after June 30, 1997, results in the loss of or damage to an artificial

member, a brace, an implant, eyeglasses, prosthodontics, or other medically prescribed device, the employer shall repair the artificial member, brace, implant, eyeglasses, prosthodontics, or other medically prescribed device or furnish an identical or a reasonably equivalent replacement.

~~(g)~~ **(h)** This section may not be construed to prohibit an agreement between an employer and the employer's employees that has the approval of the board and that binds the parties to:

- (1) medical care furnished by health care providers selected by agreement before or after injury; or
- (2) the findings of a health care provider who was chosen by agreement.

SECTION 2. IC 22-3-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) After an injury and during the period of claimed resulting disability or impairment, the employee, if ~~so~~ requested by the employee's employer or ordered by the industrial board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the worker's compensation board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to, or otherwise learned by, any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in the hearings provided for in IC 22-3-2 through IC 22-3-6, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in any way obstructs such examinations, the employee's right to compensation and his right to take or prosecute any proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the worker's compensation board the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the board.

(b) Any employer requesting an examination of any employee

1       residing within Indiana shall pay, in advance of the time fixed for the  
2       examination, sufficient money to defray the necessary expenses of  
3       travel by the most convenient means to and from the place of  
4       examination, and the cost of meals and lodging necessary during the  
5       travel. If the method of travel is by automobile, the mileage rate to be  
6       paid by the employer shall be the rate currently being paid by the state  
7       to its employees under the state travel policies and procedures  
8       established by the department of administration and approved by the  
9       budget agency. If such examination or travel to or from the place of  
10      examination causes any loss of working time on the part of the  
11      employee, the employer shall reimburse the employee for such loss of  
12      wages upon the basis of the employee's average daily wage. When any  
13      employee injured in Indiana moves outside Indiana, the travel expense  
14      and the cost of meals and lodging necessary during the travel payable  
15      under this section shall be paid from the point in Indiana nearest to the  
16      employee's then residence to the place of examination. No travel and  
17      other expense shall be paid for any travel and other expense required  
18      outside Indiana.

19       (c) A duly qualified physician or surgeon provided and paid for by  
20      the employee may be present at an examination if the employee so  
21      desires. In all cases where the examination is made by a physician or  
22      surgeon engaged by the employer and the injured employee has no  
23      physician or surgeon present at such examination, it shall be the duty  
24      of the physician or surgeon making the examination to deliver to the  
25      injured employee, or the employee's representative, a statement in  
26      writing of the conditions evidenced by such examination. The  
27      statement shall disclose all facts that are reported by such physician or  
28      surgeon to the employer. Such statement shall be furnished to the  
29      employee or the employee's representative, as soon as practicable, but  
30      not later than thirty (30) days before the time the case is set for hearing.  
31      The statement may be submitted by either party as evidence by that  
32      physician or surgeon at a hearing before the worker's compensation  
33      board if the statement meets the requirements of subsection ~~(e)~~ (f). If  
34      such physician or surgeon fails or refuses to furnish the employee or  
35      the employee's representative with such statement thirty (30) days  
36      before the hearing, then the statement may not be submitted as  
37      evidence, and such physician or surgeon shall not be permitted to  
38      testify before the worker's compensation board as to any facts learned

1 in such examination. All of the requirements of this subsection apply  
2 to all subsequent examinations requested by the employer.

3 **(d) No representative of the employer or insurance carrier,**  
4 **including case managers or rehabilitation nurses, may be present**  
5 **at any examination of an injured employee without the express**  
6 **written consent of the employee and the treating medical**  
7 **personnel. At the time of any medical examination that a**  
8 **representative of the employer wishes to attend, the representative**  
9 **of the employer shall inform the injured employee and treating**  
10 **medical personnel that their written consent is required before the**  
11 **attendance of the employer's representative. The employee's**  
12 **compensation and benefits may not be jeopardized in any way due**  
13 **to the employer's failure or refusal to complete a written waiver**  
14 **allowing the attendance of the employer's representative. The**  
15 **employer's representative may not in any way cause the employee**  
16 **to believe that the employee's compensation and benefits will be**  
17 **terminated if the employee fails or refuses to complete a written**  
18 **waiver allowing the attendance of the employer's representative.**  
19 **The written waivers shall be executed on forms prescribed by the**  
20 **board.**

21 ~~(d)~~ **(e)** In all cases where an examination of an employee is made by  
22 a physician or surgeon engaged by the employee, and the employer has  
23 no physician or surgeon present at such examination, it shall be the  
24 duty of the physician or surgeon making the examination to deliver to  
25 the employer or the employer's representative a statement in writing of  
26 the conditions evidenced by such examination. The statement shall  
27 disclose all facts that are reported by such physician or surgeon to the  
28 employee. Such statement shall be furnished to the employer or the  
29 employer's representative as soon as practicable, but not later than  
30 thirty (30) days before the time the case is set for hearing. The  
31 statement may be submitted by either party as evidence by that  
32 physician or surgeon at a hearing before the worker's compensation  
33 board if the statement meets the requirements of subsection ~~(e)~~ **(f)**. If  
34 such physician or surgeon fails or refuses to furnish the employer, or  
35 the employer's representative, with such statement thirty (30) days  
36 before the hearing, then the statement may not be submitted as  
37 evidence, and such physician or surgeon shall not be permitted to  
38 testify before the industrial board as to any facts learned in such

1 examination. All of the requirements of this subsection apply to all  
 2 subsequent examinations made by a physician or surgeon engaged by  
 3 the employee.

4 ~~(e)~~ (f) All statements of physicians or surgeons required by this  
 5 section, whether those engaged by employee or employer, shall contain  
 6 the following information:

7 (1) The history of the injury, or claimed injury, as given by the  
 8 patient.

9 (2) The diagnosis of the physician or surgeon concerning the  
 10 patient's physical or mental condition.

11 (3) The opinion of the physician or surgeon concerning the causal  
 12 relationship, if any, between the injury and the patient's physical  
 13 or mental condition, including the physician's or surgeon's reasons  
 14 for the opinion.

15 (4) The opinion of the physician or surgeon concerning whether  
 16 the injury or claimed injury resulted in a disability or impairment  
 17 and, if so, the opinion of the physician or surgeon concerning the  
 18 extent of the disability or impairment and the reasons for the  
 19 opinion.

20 (5) The original signature of the physician or surgeon.

21 Notwithstanding any hearsay objection, the worker's compensation  
 22 board shall admit into evidence a statement that meets the requirements  
 23 of this subsection unless the statement is ruled inadmissible on other  
 24 grounds.

25 ~~(f)~~ (g) Delivery of any statement required by this section may be  
 26 made to the attorney or agent of the employer or employee and such  
 27 action shall be construed as delivery to the employer or employee.

28 ~~(g)~~ (h) Any party may object to a statement on the basis that the  
 29 statement does not meet the requirements of subsection ~~(e)~~ (f). The  
 30 objecting party must give written notice to the party providing the  
 31 statement and specify the basis for the objection. Notice of the  
 32 objection must be given no later than twenty (20) days before the  
 33 hearing. Failure to object as provided in this subsection precludes any  
 34 further objection as to the adequacy of the statement under subsection  
 35 ~~(e)~~ (f).

36 ~~(h)~~ (i) The employer upon proper application, or the worker's  
 37 compensation board, shall have the right in any case of death to require  
 38 an autopsy at the expense of the party requesting the same. If, after a

1 hearing, the worker's compensation board orders an autopsy and such  
 2 autopsy is refused by the surviving spouse or next of kin, then any  
 3 claim for compensation on account of such death shall be suspended  
 4 and abated during such refusal. The surviving spouse or dependent  
 5 must be served with a notice setting forth the consequences of the  
 6 refusal under this subsection. The notice must be in a form prescribed  
 7 by the worker's compensation board. No autopsy, except one performed  
 8 by or on the authority or order of the coroner in the discharge of the  
 9 coroner's duties, shall be held in any case by any person, without notice  
 10 first being given to the surviving spouse or next of kin, if they reside in  
 11 Indiana or their whereabouts can reasonably be ascertained, of the time  
 12 and place thereof, and reasonable time and opportunity given such  
 13 surviving spouse or next of kin to have a representative or  
 14 representatives present to witness same. However, if such notice is not  
 15 given, all evidence obtained by such autopsy shall be suppressed on  
 16 motion duly made to the worker's compensation board."

17 Page 9, line 34, delete "two" and insert "**four**".

18 Page 9, line 34, after "hundred" insert "**fifty**".

19 Page 9, line 34, delete "(\$1,200)" and insert "(\$**1,450**)".

20 Page 9, line 35, delete "one" and insert "**two**".

21 Page 9, line 36, delete "eight hundred dollars (\$1,800)" and insert  
 22 "**dollars (\$2,000)**".

23 Page 9, line 38, delete "two" and insert "**six**".

24 Page 9, line 38, delete "(\$2,200)" and insert "(\$**2,600**)".

25 Page 10, line 2, delete "three" and insert "**eight**".

26 Page 10, line 2, after "hundred" insert "**fifty**".

27 Page 10, line 2, delete "(\$1,300)" and insert "(\$**1,850**)".

28 Page 10, line 4, after "thousand" insert "**seven hundred**".

29 Page 10, line 4, delete "(\$2,000)" and insert "(\$**2,700**)".

30 Page 10, line 5, delete "two" and insert "**three**".

31 Page 10, line 6, delete "(\$2,400)" and insert "(\$**3,400**)".

32 Page 10, line 11, delete "one" and insert "**two**".

33 Page 10, line 11, delete "(\$1,400)" and insert "(\$**2,400**)".

34 Page 10, line 13, after "(50)," delete "two" and insert "**three**".

35 Page 10, line 13, after "thousand" delete "two" and insert "**five**".

36 Page 10, line 14, delete "(\$2,200)" and insert "(\$**3,500**)".

37 Page 10, line 15, delete "two" and insert "**four**".

38 Page 10, line 15, delete "six" and insert "**four**".



1 Page 10, line 16, delete "\$2,600" and insert "\$4,400".

2 Page 18, after line 8, begin a new paragraph and insert:

3 "SECTION 5. IC 22-3-7-16 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Compensation  
5 shall be allowed on account of disablement from occupational disease  
6 resulting in only temporary total disability to work or temporary partial  
7 disability to work beginning with the eighth day of such disability  
8 except for the medical benefits provided for in section 17 of this  
9 chapter. Compensation shall be allowed for the first seven (7) calendar  
10 days only as provided in this section. The first weekly installment of  
11 compensation for temporary disability is due fourteen (14) days after  
12 the disability begins. Not later than fifteen (15) days from the date that  
13 the first installment of compensation is due, the employer or the  
14 employer's insurance carrier shall tender to the employee or to the  
15 employee's dependents, with all compensation due, a properly prepared  
16 compensation agreement in a form prescribed by the board. Whenever  
17 an employer or the employer's insurance carrier denies or is not able to  
18 determine liability to pay compensation or benefits, the employer or the  
19 employer's insurance carrier shall notify the worker's compensation  
20 board and the employee in writing on a form prescribed by the worker's  
21 compensation board not later than thirty (30) days after the employer's  
22 knowledge of the claimed disablement. If a determination of liability  
23 cannot be made within thirty (30) days, the worker's compensation  
24 board may approve an additional thirty (30) days upon a written request  
25 of the employer or the employer's insurance carrier that sets forth the  
26 reasons that the determination could not be made within thirty (30)  
27 days and states the facts or circumstances that are necessary to  
28 determine liability within the additional thirty (30) days. More than  
29 thirty (30) days of additional time may be approved by the worker's  
30 compensation board upon the filing of a petition by the employer or the  
31 employer's insurance carrier that sets forth:

- 32 (1) the extraordinary circumstances that have precluded a  
33 determination of liability within the initial sixty (60) days;  
34 (2) the status of the investigation on the date the petition is filed;  
35 (3) the facts or circumstances that are necessary to make a  
36 determination; and  
37 (4) a timetable for the completion of the remaining investigation.

38 An employer who fails to comply with this section is subject to a civil

1 penalty of fifty dollars (\$50), to be assessed and collected by the board  
2 upon notice and hearing. Civil penalties collected under this section  
3 shall be deposited in the state general fund.

4 (b) Once begun, temporary total disability benefits may not be  
5 terminated by the employer unless:

6 (1) the employee has returned to work;

7 (2) the employee has died;

8 (3) the employee has refused to undergo a medical examination  
9 under section 20 of this chapter;

10 (4) the employee has received five hundred (500) weeks of  
11 temporary total disability benefits or has been paid the maximum  
12 compensation allowable under section 19 of this chapter; or

13 (5) the employee is unable or unavailable to work for reasons  
14 unrelated to the compensable disease.

15 In all other cases the employer must notify the employee in writing of  
16 the employer's intent to terminate the payment of temporary total  
17 disability benefits, and of the availability of employment, if any, on a  
18 form approved by the board. If the employee disagrees with the  
19 proposed termination, the employee must give written notice of  
20 disagreement to the board and the employer within seven (7) days after  
21 receipt of the notice of intent to terminate benefits. If the board and  
22 employer do not receive a notice of disagreement under this section,  
23 the employee's temporary total disability benefits shall be terminated.  
24 Upon receipt of the notice of disagreement, the board shall immediately  
25 contact the parties, which may be by telephone or other means and  
26 attempt to resolve the disagreement. If the board is unable to resolve  
27 the disagreement within ten (10) days of receipt of the notice of  
28 disagreement, the board shall immediately arrange for an evaluation of  
29 the employee by an independent medical examiner. The independent  
30 medical examiner shall be selected by mutual agreement of the parties  
31 or, if the parties are unable to agree, appointed by the board under  
32 IC 22-3-4-11. If the independent medical examiner determines that the  
33 employee is no longer temporarily disabled or is still temporarily  
34 disabled but can return to employment that the employer has made  
35 available to the employee, or if the employee fails or refuses to appear  
36 for examination by the independent medical examiner, temporary total  
37 disability benefits may be terminated. If either party disagrees with the  
38 opinion of the independent medical examiner, the party shall apply to

1 the board for a hearing under section 27 of this chapter.

2 (c) An employer is not required to continue the payment of  
3 temporary total disability benefits for more than fourteen (14) days  
4 after the employer's proposed termination date unless the independent  
5 medical examiner determines that the employee is temporarily disabled  
6 and unable to return to any employment that the employer has made  
7 available to the employee.

8 (d) If it is determined that as a result of this section temporary total  
9 disability benefits were overpaid, the overpayment shall be deducted  
10 from any benefits due the employee under this section and, if there are  
11 no benefits due the employee or the benefits due the employee do not  
12 equal the amount of the overpayment, the employee shall be  
13 responsible for paying any overpayment which cannot be deducted  
14 from benefits due the employee.

15 (e) For disablements occurring on and after April 1, 1951, and prior  
16 to July 1, 1971, from occupational disease resulting in temporary total  
17 disability for any work, there shall be paid to the disabled employee  
18 during such temporary total disability a weekly compensation equal to  
19 sixty percent (60%) of the employee's average weekly wages for a  
20 period not to exceed five hundred (500) weeks. Compensation shall be  
21 allowed for the first seven (7) calendar days only if the disability  
22 continues for longer than twenty-eight (28) days.

23 For disablements occurring on and after July 1, 1971, and prior to  
24 July 1, 1974, from occupational disease resulting in temporary total  
25 disability for any work, there shall be paid to the disabled employee  
26 during such temporary total disability a weekly compensation equal to  
27 sixty percent (60%) of the employee's average weekly wages, as  
28 defined in section 19 of this chapter, for a period not to exceed five  
29 hundred (500) weeks. Compensation shall be allowed for the first seven  
30 (7) calendar days only if the disability continues for longer than  
31 twenty-eight (28) days.

32 For disablements occurring on and after July 1, 1974, and before  
33 July 1, 1976, from occupational disease resulting in temporary total  
34 disability for any work, there shall be paid to the disabled employee  
35 during such temporary total disability a weekly compensation equal to  
36 sixty-six and two-thirds percent (66 2/3%) of the employee's average  
37 weekly wages, up to one hundred thirty-five dollars (\$135) average  
38 weekly wages, as defined in section 19 of this chapter, for a period not

1 to exceed five hundred (500) weeks. Compensation shall be allowed for  
2 the first seven (7) calendar days only if the disability continues for  
3 longer than twenty-one (21) days.

4 For disablements occurring on and after July 1, 1976, from  
5 occupational disease resulting in temporary total disability for any  
6 work, there shall be paid to the disabled employee during the temporary  
7 total disability weekly compensation equal to sixty-six and two-thirds  
8 percent ( $66\frac{2}{3}\%$ ) of the employee's average weekly wages, as defined  
9 in section 19 of this chapter, for a period not to exceed five hundred  
10 (500) weeks. Compensation shall be allowed for the first seven (7)  
11 calendar days only if the disability continues for longer than twenty-one  
12 (21) days.

13 (f) For disablements occurring on and after April 1, 1951, and prior  
14 to July 1, 1971, from occupational disease resulting in temporary  
15 partial disability for work, there shall be paid to the disabled employee  
16 during such disability a weekly compensation equal to sixty percent  
17 (60%) of the difference between the employee's average weekly wages  
18 and the weekly wages at which the employee is actually employed after  
19 the disablement, for a period not to exceed three hundred (300) weeks.  
20 Compensation shall be allowed for the first seven (7) calendar days  
21 only if the disability continues for longer than twenty-eight (28) days.  
22 In case of partial disability after the period of temporary total disability,  
23 the later period shall be included as part of the maximum period  
24 allowed for partial disability.

25 For disablements occurring on and after July 1, 1971, and prior to  
26 July 1, 1974, from occupational disease resulting in temporary partial  
27 disability for work, there shall be paid to the disabled employee during  
28 such disability a weekly compensation equal to sixty percent (60%) of  
29 the difference between the employee's average weekly wages, as  
30 defined in section 19 of this chapter, and the weekly wages at which the  
31 employee is actually employed after the disablement, for a period not  
32 to exceed three hundred (300) weeks. Compensation shall be allowed  
33 for the first seven (7) calendar days only if the disability continues for  
34 longer than twenty-eight (28) days. In case of partial disability after the  
35 period of temporary total disability, the latter period shall be included  
36 as a part of the maximum period allowed for partial disability.

37 For disablements occurring on and after July 1, 1974, from  
38 occupational disease resulting in temporary partial disability for work,

1       there shall be paid to the disabled employee during such disability a  
2       weekly compensation equal to sixty-six and two-thirds percent (66  
3       2/3%) of the difference between the employee's average weekly wages,  
4       as defined in section 19 of this chapter, and the weekly wages at which  
5       he is actually employed after the disablement, for a period not to  
6       exceed three hundred (300) weeks. Compensation shall be allowed for  
7       the first seven (7) calendar days only if the disability continues for  
8       longer than twenty-one (21) days. In case of partial disability after the  
9       period of temporary total disability, the latter period shall be included  
10      as a part of the maximum period allowed for partial disability.

11       (g) For disabilities occurring on and after April 1, 1951, and prior  
12      to April 1, 1955, from occupational disease in the following schedule,  
13      the employee shall receive in lieu of all other compensation, on account  
14      of such disabilities, a weekly compensation of sixty percent (60%) of  
15      the employee's average weekly wage; for disabilities occurring on and  
16      after April 1, 1955, and prior to July 1, 1971, from occupational disease  
17      in the following schedule, the employee shall receive in addition to  
18      disability benefits not exceeding twenty-six (26) weeks on account of  
19      said occupational disease a weekly compensation of sixty percent  
20      (60%) of the employee's average weekly wages.

21       For disabilities occurring on and after July 1, 1971, and before July  
22      1, 1977, from occupational disease in the following schedule, the  
23      employee shall receive in addition to disability benefits not exceeding  
24      twenty-six (26) weeks on account of said occupational disease a weekly  
25      compensation of sixty percent (60%) of his average weekly wages not  
26      to exceed one hundred dollars (\$100) average weekly wages, for the  
27      period stated for such disabilities respectively.

28       For disabilities occurring on and after July 1, 1977, and before July  
29      1, 1979, from occupational disease in the following schedule, the  
30      employee shall receive in addition to disability benefits not exceeding  
31      twenty-six (26) weeks on account of the occupational disease a weekly  
32      compensation of sixty percent (60%) of the employee's average weekly  
33      wages, not to exceed one hundred twenty-five dollars (\$125) average  
34      weekly wages, for the period stated for the disabilities.

35       For disabilities occurring on and after July 1, 1979, and before July  
36      1, 1988, from occupational disease in the following schedule, the  
37      employee shall receive in addition to disability benefits, not exceeding  
38      fifty-two (52) weeks on account of the occupational disease, a weekly

1 compensation of sixty percent (60%) of the employee's average weekly  
2 wages, not to exceed one hundred twenty-five dollars (\$125) average  
3 weekly wages, for the period stated for the disabilities.

4 For disabilities occurring on and after July 1, 1988, and before July  
5 1, 1989, from occupational disease in the following schedule, the  
6 employee shall receive in addition to disability benefits, not exceeding  
7 seventy-eight (78) weeks on account of the occupational disease, a  
8 weekly compensation of sixty percent (60%) of the employee's average  
9 weekly wages, not to exceed one hundred sixty-six dollars (\$166)  
10 average weekly wages, for the period stated for the disabilities.

11 For disabilities occurring on and after July 1, 1989, and before July  
12 1, 1990, from occupational disease in the following schedule, the  
13 employee shall receive in addition to disability benefits, not exceeding  
14 seventy-eight (78) weeks on account of the occupational disease, a  
15 weekly compensation of sixty percent (60%) of the employee's average  
16 weekly wages, not to exceed one hundred eighty-three dollars (\$183)  
17 average weekly wages, for the period stated for the disabilities.

18 For disabilities occurring on and after July 1, 1990, and before July  
19 1, 1991, from occupational disease in the following schedule, the  
20 employee shall receive in addition to disability benefits, not exceeding  
21 seventy-eight (78) weeks on account of the occupational disease, a  
22 weekly compensation of sixty percent (60%) of the employee's average  
23 weekly wages, not to exceed two hundred dollars (\$200) average  
24 weekly wages, for the period stated for the disabilities.

25 (1) Amputations: For the loss by separation, of the thumb, sixty  
26 (60) weeks; of the index finger, forty (40) weeks; of the second  
27 finger, thirty-five (35) weeks; of the third or ring finger, thirty  
28 (30) weeks; of the fourth or little finger, twenty (20) weeks; of the  
29 hand by separation below the elbow, two hundred (200) weeks; of  
30 the arm above the elbow joint, two hundred fifty (250) weeks; of  
31 the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks;  
32 of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15)  
33 weeks; of the fifth or little toe, ten (10) weeks; of the foot below  
34 the knee joint, one hundred fifty (150) weeks; and of the leg  
35 above the knee joint, two hundred (200) weeks. The loss of more  
36 than one (1) phalange of a thumb or toe shall be considered as the  
37 loss of the entire thumb or toe. The loss of more than two (2)  
38 phalanges of a finger shall be considered as the loss of the entire

1 finger. The loss of not more than one (1) phalange of a thumb or  
2 toe shall be considered as the loss of one-half (1/2) of the thumb  
3 or toe and compensation shall be paid for one-half (1/2) of the  
4 period for the loss of the entire thumb or toe. The loss of not more  
5 than two (2) phalanges of a finger shall be considered as the loss  
6 of one-half (1/2) the finger and compensation shall be paid for  
7 one-half (1/2) of the period for the loss of the entire finger.

8 (2) Loss of Use: The total permanent loss of the use of an arm,  
9 hand, thumb, finger, leg, foot, toe, or phalange shall be considered  
10 as the equivalent of the loss by separation of the arm, hand,  
11 thumb, finger, leg, foot, toe, or phalange and the compensation  
12 shall be paid for the same period as for the loss thereof by  
13 separation.

14 (3) Partial Loss of Use: For the permanent partial loss of the use  
15 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,  
16 compensation shall be paid for the proportionate loss of the use of  
17 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

18 (4) For disablements for occupational disease resulting in total  
19 permanent disability, five hundred (500) weeks.

20 (5) For the loss of both hands, or both feet, or the total sight of  
21 both eyes, or any two (2) of such losses resulting from the same  
22 disablement by occupational disease, five hundred (500) weeks.

23 (6) For the permanent and complete loss of vision by enucleation  
24 of an eye or its reduction to one-tenth (1/10) of normal vision with  
25 glasses, one hundred fifty (150) weeks, and for any other  
26 permanent reduction of the sight of an eye, compensation shall be  
27 paid for a period proportionate to the degree of such permanent  
28 reduction without correction or glasses. However, when such  
29 permanent reduction without correction or glasses would result in  
30 one hundred percent (100%) loss of vision, but correction or  
31 glasses would result in restoration of vision, then compensation  
32 shall be paid for fifty percent (50%) of such total loss of vision  
33 without glasses plus an additional amount equal to the  
34 proportionate amount of such reduction with glasses, not to  
35 exceed an additional fifty percent (50%).

36 (7) For the permanent and complete loss of hearing, two hundred  
37 (200) weeks.

38 (8) In all other cases of permanent partial impairment,

1 compensation proportionate to the degree of such permanent  
 2 partial impairment, in the discretion of the worker's compensation  
 3 board, not exceeding five hundred (500) weeks.

4 (9) In all cases of permanent disfigurement, which may impair the  
 5 future usefulness or opportunities of the employee, compensation  
 6 in the discretion of the worker's compensation board, not  
 7 exceeding two hundred (200) weeks, except that no compensation  
 8 shall be payable under this paragraph where compensation shall  
 9 be payable under subdivisions (1) through (8). Where  
 10 compensation for temporary total disability has been paid, this  
 11 amount of compensation shall be deducted from any  
 12 compensation due for permanent disfigurement.

13 With respect to disablements in the following schedule occurring on  
 14 and after July 1, 1991, the employee shall receive in addition to  
 15 temporary total disability benefits, not exceeding one hundred  
 16 twenty-five (125) weeks on account of the disablement, compensation  
 17 in an amount determined under the following schedule to be paid  
 18 weekly at a rate of sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the  
 19 employee's average weekly wages during the fifty-two (52) weeks  
 20 immediately preceding the week in which the disablement occurred:

21 (1) Amputation: For the loss by separation of the thumb, twelve  
 22 (12) degrees of permanent impairment; of the index finger, eight  
 23 (8) degrees of permanent impairment; of the second finger, seven  
 24 (7) degrees of permanent impairment; of the third or ring finger,  
 25 six (6) degrees of permanent impairment; of the fourth or little  
 26 finger, four (4) degrees of permanent impairment; of the hand by  
 27 separation below the elbow joint, forty (40) degrees of permanent  
 28 impairment; of the arm above the elbow, fifty (50) degrees of  
 29 permanent impairment; of the big toe, twelve (12) degrees of  
 30 permanent impairment; of the second toe, six (6) degrees of  
 31 permanent impairment; of the third toe, four (4) degrees of  
 32 permanent impairment; of the fourth toe, three (3) degrees of  
 33 permanent impairment; of the fifth or little toe, two (2) degrees of  
 34 permanent impairment; of separation of the foot below the knee  
 35 joint, thirty-five (35) degrees of permanent impairment; and of the  
 36 leg above the knee joint, forty-five (45) degrees of permanent  
 37 impairment.

38 (2) Amputations occurring on or after July 1, 1997: For the loss



1 by separation of any of the body parts described in subdivision (1)  
2 on or after July 1, 1997, the dollar values per degree applying on  
3 the date of the injury as described in subsection (h) shall be  
4 multiplied by two (2). However, the doubling provision of this  
5 subdivision does not apply to a loss of use that is not a loss by  
6 separation.

7 (3) The loss of more than one (1) phalange of a thumb or toe shall  
8 be considered as the loss of the entire thumb or toe. The loss of  
9 more than two (2) phalanges of a finger shall be considered as the  
10 loss of the entire finger. The loss of not more than one (1)  
11 phalange of a thumb or toe shall be considered as the loss of  
12 one-half (1/2) of the degrees of permanent impairment for the loss  
13 of the entire thumb or toe. The loss of not more than one (1)  
14 phalange of a finger shall be considered as the loss of one-third  
15 (1/3) of the finger and compensation shall be paid for one-third  
16 (1/3) of the degrees payable for the loss of the entire finger. The  
17 loss of more than one (1) phalange of the finger but not more than  
18 two (2) phalanges of the finger shall be considered as the loss of  
19 one-half (1/2) of the finger and compensation shall be paid for  
20 one-half (1/2) of the degrees payable for the loss of the entire  
21 finger.

22 (4) For the loss by separation of both hands or both feet or the  
23 total sight of both eyes or any two (2) such losses in the same  
24 accident, one hundred (100) degrees of permanent impairment.

25 (5) For the permanent and complete loss of vision by enucleation  
26 or its reduction to one-tenth (1/10) of normal vision with glasses,  
27 thirty-five (35) degrees of permanent impairment.

28 (6) For the permanent and complete loss of hearing in one (1) ear,  
29 fifteen (15) degrees of permanent impairment, and in both ears,  
30 forty (40) degrees of permanent impairment.

31 (7) For the loss of one (1) testicle, (10) ten degrees of permanent  
32 impairment; for the loss of both testicles, thirty (30) degrees of  
33 permanent impairment.

34 (8) Loss of use: The total permanent loss of the use of an arm, a  
35 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be  
36 considered as the equivalent of the loss by separation of the arm,  
37 hand, thumb, finger, leg, foot, toe, or phalange, and compensation  
38 shall be paid in the same amount as for the loss by separation.

1 However, the doubling provision of subdivision (2) does not  
2 apply to a loss of use that is not a loss by separation.

3 (9) Partial loss of use: For the permanent partial loss of the use of  
4 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a  
5 phalange, compensation shall be paid for the proportionate loss of  
6 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

7 (10) For disablements resulting in total permanent disability, the  
8 amount payable for impairment or five hundred (500) weeks of  
9 compensation, whichever is greater.

10 (11) For any permanent reduction of the sight of an eye less than  
11 a total loss as specified in subdivision (3), the compensation shall  
12 be paid in an amount proportionate to the degree of a permanent  
13 reduction without correction or glasses. However, when a  
14 permanent reduction without correction or glasses would result in  
15 one hundred percent (100%) loss of vision, then compensation  
16 shall be paid for fifty percent (50%) of the total loss of vision  
17 without glasses, plus an additional amount equal to the  
18 proportionate amount of the reduction with glasses, not to exceed  
19 an additional fifty percent (50%).

20 (12) For any permanent reduction of the hearing of one (1) or both  
21 ears, less than the total loss as specified in subdivision (4),  
22 compensation shall be paid in an amount proportionate to the  
23 degree of a permanent reduction.

24 (13) In all other cases of permanent partial impairment,  
25 compensation proportionate to the degree of a permanent partial  
26 impairment, in the discretion of the worker's compensation board,  
27 not exceeding one hundred (100) degrees of permanent  
28 impairment.

29 (14) In all cases of permanent disfigurement which may impair  
30 the future usefulness or opportunities of the employee,  
31 compensation, in the discretion of the worker's compensation  
32 board, not exceeding forty (40) degrees of permanent impairment  
33 except that no compensation shall be payable under this  
34 subdivision where compensation is payable elsewhere in this  
35 section.

36 (h) With respect to disablements occurring on and after July 1,  
37 1991, compensation for permanent partial impairment shall be paid  
38 according to the degree of permanent impairment for the disablement

1 determined under subsection (d) and the following:

2 (1) With respect to disablements occurring on and after July 1,  
3 1991, and before July 1, 1992, for each degree of permanent  
4 impairment from one (1) to thirty-five (35), five hundred dollars  
5 (\$500) per degree; for each degree of permanent impairment from  
6 thirty-six (36) to fifty (50), nine hundred dollars (\$900) per  
7 degree; for each degree of permanent impairment above fifty (50),  
8 one thousand five hundred dollars (\$1,500) per degree.

9 (2) With respect to disablements occurring on and after July 1,  
10 1992, and before July 1, 1993, for each degree of permanent  
11 impairment from one (1) to twenty (20), five hundred dollars  
12 (\$500) per degree; for each degree of permanent impairment from  
13 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)  
14 per degree; for each degree of permanent impairment from  
15 thirty-six (36) to fifty (50), one thousand three hundred dollars  
16 (\$1,300) per degree; for each degree of permanent impairment  
17 above fifty (50), one thousand seven hundred dollars (\$1,700) per  
18 degree.

19 (3) With respect to disablements occurring on and after July 1,  
20 1993, and before July 1, 1997, for each degree of permanent  
21 impairment from one (1) to ten (10), five hundred dollars (\$500)  
22 per degree; for each degree of permanent impairment from eleven  
23 (11) to twenty (20), seven hundred dollars (\$700) per degree; for  
24 each degree of permanent impairment from twenty-one (21) to  
25 thirty-five (35), one thousand dollars (\$1,000) per degree; for  
26 each degree of permanent impairment from thirty-six (36) to fifty  
27 (50), one thousand four hundred dollars (\$1,400) per degree; for  
28 each degree of permanent impairment above fifty (50), one  
29 thousand seven hundred dollars (\$1,700) per degree.

30 (4) With respect to disablements occurring on and after July 1,  
31 1997, and before July 1, 1998, for each degree of permanent  
32 impairment from one (1) to ten (10), seven hundred fifty dollars  
33 (\$750) per degree; for each degree of permanent impairment from  
34 eleven (11) thirty-five (35), one thousand dollars (\$1,000) per  
35 degree; for each degree of permanent impairment from thirty-six  
36 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per  
37 degree; for each degree of permanent impairment above fifty (50),  
38 one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, **and before July 1, 2000**, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

**(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), nine hundred fifty dollars (\$950) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand four hundred fifty dollars (\$1,450) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand six hundred dollars (\$2,600) per degree.**

**(8) With respect to disablements occurring on and after July 1, 2001, and before July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand eight hundred fifty dollars (\$1,850) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars (\$2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand four hundred dollars (\$3,400) per degree.**

**(9) With respect to disablements occurring on and after July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), one thousand fifty dollars (\$1,050) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand five hundred dollars (\$3,500) per degree; for each degree of permanent impairment above fifty (50), four thousand four hundred dollars (\$4,400) per degree.**

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to disablements occurring on or after July 1, 2000, **and before July 1, 2001**, seven hundred sixty-two dollars (\$762).

**(9) With respect to disablements occurring on or after July 1, 2001, and before July 1, 2002, eight hundred seven dollars (\$807).**

**(10) With respect to disablements occurring on or after July 1, 2002, eight hundred forty dollars (\$840).**

(j) If any employee, only partially disabled, refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which he suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, he shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(2), (g)(3), (g)(6), or (g)(7); but the employee shall be entitled to

1 compensation for that disability and from the time of that disability  
2 which will cover the longest period and the largest amount payable  
3 under this chapter.

4 (m) If an employee receives a permanent disability from  
5 occupational disease such as specified in subsection (g)(1), (g)(2),  
6 (g)(3), (g)(6), or (g)(7), after having sustained another such permanent  
7 disability in the same employment the employee shall be entitled to  
8 compensation for both such disabilities, but the total compensation  
9 shall be paid by extending the period and not by increasing the amount  
10 of weekly compensation and, when such previous and subsequent  
11 permanent disabilities, in combination result in total permanent  
12 disability or permanent total impairment, compensation shall be  
13 payable for such permanent total disability or impairment, but  
14 payments made for the previous disability or impairment shall be  
15 deducted from the total payment of compensation due.

16 (n) When an employee has been awarded or is entitled to an award  
17 of compensation for a definite period under this chapter for disability  
18 from occupational disease, which disablement occurs on and after April  
19 1, 1951, and prior to April 1, 1963, and such employee dies from any  
20 other cause than such occupational disease, payment of the unpaid  
21 balance of such compensation, not exceeding three hundred (300)  
22 weeks, shall be made to the employee's dependents of the second and  
23 third class as defined in sections 11 through 14 of this chapter, and  
24 compensation, not exceeding five hundred (500) weeks, shall be made  
25 to the employee's dependents of the first class as defined in sections 11  
26 through 14 of this chapter. When an employee has been awarded or is  
27 entitled to an award of compensation for a definite period from an  
28 occupational disease wherein disablement occurs on and after April 1,  
29 1963, and such employee dies from other causes than such  
30 occupational disease, payment of the unpaid balance of such  
31 compensation not exceeding three hundred fifty (350) weeks shall be  
32 paid to the employee's dependents of the second and third class as  
33 defined in sections 11 through 14 of this chapter and compensation, not  
34 exceeding five hundred (500) weeks shall be made to the employee's  
35 dependents of the first class as defined in sections 11 through 14 of this  
36 chapter.

37 (o) Any payment made by the employer to the employee during the  
38 period of the employee's disability, or to the employee's dependents,

1 which, by the terms of this chapter, was not due and payable when  
 2 made, may, subject to the approval of the worker's compensation board,  
 3 be deducted from the amount to be paid as compensation, but such  
 4 deduction shall be made from the distal end of the period during which  
 5 compensation must be paid, except in cases of temporary disability.

6 (p) When so provided in the compensation agreement or in the  
 7 award of the worker's compensation board, compensation may be paid  
 8 semimonthly, or monthly, instead of weekly.

9 (q) When the aggregate payments of compensation awarded by  
 10 agreement or upon hearing to an employee or dependent under eighteen  
 11 (18) years of age do not exceed one hundred dollars (\$100), the  
 12 payment thereof may be made directly to such employee or dependent,  
 13 except when the worker's compensation board shall order otherwise.

14 Whenever the aggregate payments of compensation, due to any  
 15 person under eighteen (18) years of age, exceed one hundred dollars  
 16 (\$100), the payment thereof shall be made to a trustee, appointed by the  
 17 circuit or superior court, or to a duly qualified guardian, or, upon the  
 18 order of the worker's compensation board, to a parent or to such minor  
 19 person. The payment of compensation, due to any person eighteen (18)  
 20 years of age or over, may be made directly to such person.

21 (r) If an employee, or a dependent, is mentally incompetent, or a  
 22 minor at the time when any right or privilege accrues to the employee  
 23 under this chapter, the employee's guardian or trustee may, in the  
 24 employee's behalf, claim and exercise such right and privilege.

25 (s) All compensation payments named and provided for in this  
 26 section, shall mean and be defined to be for only such occupational  
 27 diseases and disabilities therefrom as are proved by competent  
 28 evidence, of which there are or have been objective conditions or  
 29 symptoms proven, not within the physical or mental control of the  
 30 employee himself.

31 SECTION 6. IC 22-3-7-16.1 IS ADDED TO THE INDIANA CODE  
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 33 JANUARY 1, 2001]: **Sec. 16.1. (a) Every insurance carrier insuring**  
 34 **employers who are or may be liable under this article to pay**  
 35 **compensation for disablement or death from occupational diseases**  
 36 **of their employees under this article and every employer carrying**  
 37 **the employer's own risk shall, on or before April 10 of each year,**  
 38 **pay to the worker's compensation board for the benefit of a fund**



1 to be known as the occupational diseases second injury fund. The  
 2 payment shall be a sum equal to one percent (1%) of the total  
 3 amount of all payments under this chapter for occupational  
 4 diseases paid to employees with occupational diseases or their  
 5 beneficiaries under this chapter for the calendar year next  
 6 preceding the due date of such payment. If the amount to the credit  
 7 of the occupational diseases second injury fund as of April 1 of any  
 8 year exceeds five hundred thousand dollars (\$500,000), the  
 9 payments of one percent (1%) shall not be assessed or collected  
 10 during the ensuing year. But when on April 1 of any year the  
 11 amount to the credit of the fund is less than five hundred thousand  
 12 dollars (\$500,000), the payments of one percent (1%) of the total  
 13 amount of all payments under this chapter for occupational  
 14 diseases paid to employees with occupational diseases or their  
 15 beneficiaries under this chapter for the calendar year next  
 16 preceding that date shall be resumed and paid into the fund.

17 (b) The sums shall be paid by the worker's compensation board  
 18 to the treasurer of state, to be deposited in a special account known  
 19 as the occupational diseases second injury fund. The funds are not  
 20 part of the state general fund. Any balance remaining in the  
 21 account at the end of any fiscal year does not revert to the state  
 22 general fund. The funds shall be used only for the payment of  
 23 awards of compensation and expense of medical examinations or  
 24 treatment made and ordered by the board and chargeable against  
 25 the occupational diseases second injury fund under this section and  
 26 shall be paid for that purpose by the treasurer of state upon award  
 27 or order of the board.

28 (c) If an employee who is entitled to compensation under this  
 29 chapter either:

- 30 (1) exhausts the maximum benefits under section 19 of this
- 31 chapter without having received the full amount of award
- 32 granted to the employee under section 16 of this chapter; or
- 33 (2) exhausts the employee's benefits under section 16 of this
- 34 chapter;

35 the employee may apply to the worker's compensation board,  
 36 which may award the employee compensation from the  
 37 occupational diseases second injury fund established by this  
 38 section, as provided under subsection (d).

(d) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's disablement from occupational disease, not to exceed the maximum then applicable under section 19 of this chapter for a period not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from an occupational disease (as defined in section 10 of this chapter) of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(e) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the worker's compensation board for successive periods not to exceed one hundred fifty (150) weeks each.

SECTION 7. IC 22-3-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of his occupational disease, and in addition thereto such surgical, hospital, and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, ~~said~~ **the** employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of ~~said~~ **the** travel by the state of Indiana to its employees.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and supplies be furnished by or on behalf of the employer as the board may deem reasonably necessary.

1       (c) No representative of the employer or insurance carrier,  
2 including case managers or rehabilitation nurses, may be present  
3 at any treatment of an employee with an occupational disease  
4 without the express written consent of the employee and the  
5 treating medical personnel. At the time of any medical treatment  
6 that a representative of the employer wishes to attend, the  
7 representative of the employer shall inform the employee with an  
8 occupational disease and treating medical personnel that their  
9 written consent is required before the attendance of the employer's  
10 representative. The employee's compensation and benefits may not  
11 be jeopardized in any way due to the employer's failure or refusal  
12 to complete a written waiver allowing the attendance of the  
13 employer's representative. The employer's representative may not  
14 in any way cause the employee to believe that the employee's  
15 compensation and benefits will be terminated if the employee fails  
16 or refuses to complete a written waiver allowing the attendance of  
17 the employer's representative. The written waivers shall be  
18 executed on forms prescribed by the board.

19       (d) After an employee's occupational disease has been adjudicated  
20 by agreement or award on the basis of permanent partial impairment  
21 and within the statutory period for review in such case as provided in  
22 section 27(i) of this chapter, the employer may continue to furnish a  
23 physician or a surgeon and other medical services and supplies, and the  
24 board may, within such statutory period for review as provided in  
25 section 27(i) of this chapter, on a proper application of either party,  
26 require that treatment by such physician or surgeon and such services  
27 and supplies be furnished by and on behalf of the employer as the  
28 board may deem necessary to limit or reduce the amount and extent of  
29 such impairment. The refusal of the employee to accept such services  
30 and supplies when so provided by or on behalf of the employer, shall  
31 bar the employee from all compensation otherwise payable during the  
32 period of such refusal and his right to prosecute any proceeding under  
33 this chapter shall be suspended and abated until such refusal ceases.  
34 The employee must be served with a notice setting forth the  
35 consequences of the refusal under this section. The notice must be in  
36 a form prescribed by the worker's compensation board. No  
37 compensation for permanent total impairment, permanent partial  
38 impairment, permanent disfigurement, or death shall be paid or payable

1 for that part or portion of such impairment, disfigurement, or death  
 2 which is the result of the failure of such employee to accept such  
 3 treatment, services, and supplies, provided that an employer may at any  
 4 time permit an employee to have treatment for his disease or injury by  
 5 spiritual means or prayer in lieu of such physician, services, and  
 6 supplies.

7 ~~(c)~~ (e) Regardless of when it occurs, where a compensable  
 8 occupational disease results in the amputation of a body part, the  
 9 enucleation of an eye, or the loss of natural teeth, the employer shall  
 10 furnish an appropriate artificial member, braces, and prosthodontics.  
 11 The cost of repairs to or replacements for the artificial members,  
 12 braces, or prosthodontics that result from a compensable occupational  
 13 disease pursuant to a prior award and are required due to either medical  
 14 necessity or normal wear and tear, determined according to the  
 15 employee's individual use, but not abuse, of the artificial member,  
 16 braces, or prosthodontics, shall be paid from the second injury fund  
 17 upon order or award of the worker's compensation board. The  
 18 employee is not required to meet any other requirement for admission  
 19 to the second injury fund.

20 ~~(d)~~ (f) If an emergency or because of the employer's failure to  
 21 provide such attending physician or such surgical, hospital, or nurse's  
 22 services and supplies or such treatment by spiritual means or prayer as  
 23 specified in this section, or for other good reason, a physician other  
 24 than that provided by the employer treats the diseased employee within  
 25 the period of disability, or necessary and proper surgical, hospital, or  
 26 nurse's services and supplies are procured within ~~said~~ the period, the  
 27 reasonable cost of such services and supplies shall, subject to approval  
 28 of the worker's compensation board, be paid by the employer.

29 ~~(e)~~ (g) This section may not be construed to prohibit an agreement  
 30 between an employer and employees that has the approval of the board  
 31 and that:

- 32 (1) binds the parties to medical care furnished by providers
- 33 selected by agreement before or after disablement; or
- 34 (2) makes the findings of a provider chosen in this manner
- 35 binding upon the parties.

36 ~~(f)~~ (h) The employee and the employee's estate do not have liability  
 37 to a health care provider for payment for services obtained under this  
 38 section. The right to order payment for all services provided under this

chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

SECTION 8. IC 22-3-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

(A) not more than one hundred thirty-five dollars (\$135); and

(B) not less than seventy-five dollars (\$75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

(A) not more than one hundred fifty-six dollars (\$156); and

(B) not less than seventy-five dollars (\$75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

(A) not more than one hundred eighty dollars (\$180); and

(B) not less than seventy-five dollars (\$75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars (\$195); and

(B) not less than seventy-five dollars (\$75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

(A) not more than two hundred ten dollars (\$210); and

(B) not less than seventy-five dollars (\$75);

(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:

(A) not more than two hundred thirty-four dollars (\$234); and

(B) not less than seventy-five dollars (\$75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

(A) not more than two hundred forty-nine dollars (\$249); and

(B) not less than seventy-five dollars (\$75).

(b) In computing compensation for temporary total disability,

1 temporary partial disability, and total permanent disability, with respect  
2 to occupational diseases occurring on and after July 1, 1985, and before  
3 July 1, 1986, the average weekly wages are considered to be:

- 4 (1) not more than two hundred sixty-seven dollars (\$267); and
- 5 (2) not less than seventy-five dollars (\$75).

6 (c) In computing compensation for temporary total disability,  
7 temporary partial disability, and total permanent disability, with respect  
8 to occupational diseases occurring on and after July 1, 1986, and before  
9 July 1, 1988, the average weekly wages are considered to be:

- 10 (1) not more than two hundred eighty-five dollars (\$285); and
- 11 (2) not less than seventy-five dollars (\$75).

12 (d) In computing compensation for temporary total disability,  
13 temporary partial disability, and total permanent disability, with respect  
14 to occupational diseases occurring on and after July 1, 1988, and before  
15 July 1, 1989, the average weekly wages are considered to be:

- 16 (1) not more than three hundred eighty-four dollars (\$384); and
- 17 (2) not less than seventy-five dollars (\$75).

18 (e) In computing compensation for temporary total disability,  
19 temporary partial disability, and total permanent disability, with respect  
20 to occupational diseases occurring on and after July 1, 1989, and before  
21 July 1, 1990, the average weekly wages are considered to be:

- 22 (1) not more than four hundred eleven dollars (\$411); and
- 23 (2) not less than seventy-five dollars (\$75).

24 (f) In computing compensation for temporary total disability,  
25 temporary partial disability, and total permanent disability, with respect  
26 to occupational diseases occurring on and after July 1, 1990, and before  
27 July 1, 1991, the average weekly wages are considered to be:

- 28 (1) not more than four hundred forty-one dollars (\$441); and
- 29 (2) not less than seventy-five dollars (\$75).

30 (g) In computing compensation for temporary total disability,  
31 temporary partial disability, and total permanent disability, with respect  
32 to occupational diseases occurring on and after July 1, 1991, and before  
33 July 1, 1992, the average weekly wages are considered to be:

- 34 (1) not more than four hundred ninety-two dollars (\$492); and
- 35 (2) not less than seventy-five dollars (\$75).

36 (h) In computing compensation for temporary total disability,  
37 temporary partial disability, and total permanent disability, with respect  
38 to occupational diseases occurring on and after July 1, 1992, and before

- 1 July 1, 1993, the average weekly wages are considered to be:  
 2 (1) not more than five hundred forty dollars (\$540); and  
 3 (2) not less than seventy-five dollars (\$75).  
 4 (i) In computing compensation for temporary total disability,  
 5 temporary partial disability, and total permanent disability, with respect  
 6 to occupational diseases occurring on and after July 1, 1993, and before  
 7 July 1, 1994, the average weekly wages are considered to be:  
 8 (1) not more than five hundred ninety-one dollars (\$591); and  
 9 (2) not less than seventy-five dollars (\$75).  
 10 (j) In computing compensation for temporary total disability,  
 11 temporary partial disability and total permanent disability, with respect  
 12 to occupational diseases occurring on and after July 1, 1994, and before  
 13 July 1, 1997, the average weekly wages are considered to be:  
 14 (1) not more than six hundred forty-two dollars (\$642); and  
 15 (2) not less than seventy-five dollars (\$75).  
 16 (k) In computing compensation for temporary total disability,  
 17 temporary partial disability, and total permanent disability, the average  
 18 weekly wages are considered to be:  
 19 (1) with respect to occupational diseases occurring on and after  
 20 July 1, 1997, and before July 1, 1998:  
 21 (A) not more than six hundred seventy-two dollars (\$672); and  
 22 (B) not less than seventy-five dollars (\$75);  
 23 (2) with respect to occupational diseases occurring on and after  
 24 July 1, 1998, and before July 1, 1999:  
 25 (A) not more than seven hundred two dollars (\$702); and  
 26 (B) not less than seventy-five dollars (\$75);  
 27 (3) with respect to occupational diseases occurring on and after  
 28 July 1, 1999, and before July 1, 2000:  
 29 (A) not more than seven hundred thirty-two dollars (\$732);  
 30 and  
 31 (B) not less than seventy-five dollars (\$75); ~~and~~  
 32 (4) with respect to occupational diseases ~~occurring~~ **occurring** on  
 33 and after July 1, 2000, **and before July 1, 2001:**  
 34 (A) not more than seven hundred sixty-two dollars (\$762); and  
 35 (B) not less than seventy-five dollars (\$75);  
 36 **(5) with respect to occupational diseases occurring on and**  
 37 **after July 1, 2001, and before July 1, 2002:**  
 38 **(A) not more than eight hundred seven dollars (\$807); and**

1                   **(B) not less than seventy-five dollars (\$75); and**  
 2                   **(6) with respect to occupational diseases occurring on and**  
 3                   **after July 1, 2002:**

4                   **(A) not more than eight hundred forty dollars (\$840); and**  
 5                   **(B) not less than seventy-five dollars (\$75).**

6                   (l) The maximum compensation that shall be paid for occupational  
 7                   disease and its results under any one (1) or more provisions of this  
 8                   chapter with respect to disability or death occurring:

9                   (1) on and after July 1, 1974, and before July 1, 1976, shall not  
 10                   exceed forty-five thousand dollars (\$45,000) in any case;

11                   (2) on and after July 1, 1976, and before July 1, 1977, shall not  
 12                   exceed fifty-two thousand dollars (\$52,000) in any case;

13                   (3) on and after July 1, 1977, and before July 1, 1979, may not  
 14                   exceed sixty thousand dollars (\$60,000) in any case;

15                   (4) on and after July 1, 1979, and before July 1, 1980, may not  
 16                   exceed sixty-five thousand dollars (\$65,000) in any case;

17                   (5) on and after July 1, 1980, and before July 1, 1983, may not  
 18                   exceed seventy thousand dollars (\$70,000) in any case;

19                   (6) on and after July 1, 1983, and before July 1, 1984, may not  
 20                   exceed seventy-eight thousand dollars (\$78,000) in any case; and

21                   (7) on and after July 1, 1984, and before July 1, 1985, may not  
 22                   exceed eighty-three thousand dollars (\$83,000) in any case.

23                   (m) The maximum compensation with respect to disability or death  
 24                   occurring on and after July 1, 1985, and before July 1, 1986, which  
 25                   shall be paid for occupational disease and the results thereof under the  
 26                   provisions of this chapter or under any combination of its provisions  
 27                   may not exceed eighty-nine thousand dollars (\$89,000) in any case.  
 28                   The maximum compensation with respect to disability or death  
 29                   occurring on and after July 1, 1986, and before July 1, 1988, which  
 30                   shall be paid for occupational disease and the results thereof under the  
 31                   provisions of this chapter or under any combination of its provisions  
 32                   may not exceed ninety-five thousand dollars (\$95,000) in any case. The  
 33                   maximum compensation with respect to disability or death occurring  
 34                   on and after July 1, 1988, and before July 1, 1989, that shall be paid for  
 35                   occupational disease and the results thereof under this chapter or under  
 36                   any combination of its provisions may not exceed one hundred  
 37                   twenty-eight thousand dollars (\$128,000) in any case.

38                   (n) The maximum compensation with respect to disability or death



1 occurring on and after July 1, 1989, and before July 1, 1990, that shall  
2 be paid for occupational disease and the results thereof under this  
3 chapter or under any combination of its provisions may not exceed one  
4 hundred thirty-seven thousand dollars (\$137,000) in any case.

5 (o) The maximum compensation with respect to disability or death  
6 occurring on and after July 1, 1990, and before July 1, 1991, that shall  
7 be paid for occupational disease and the results thereof under this  
8 chapter or under any combination of its provisions may not exceed one  
9 hundred forty-seven thousand dollars (\$147,000) in any case.

10 (p) The maximum compensation with respect to disability or death  
11 occurring on and after July 1, 1991, and before July 1, 1992, that shall  
12 be paid for occupational disease and the results thereof under this  
13 chapter or under any combination of the provisions of this chapter may  
14 not exceed one hundred sixty-four thousand dollars (\$164,000) in any  
15 case.

16 (q) The maximum compensation with respect to disability or death  
17 occurring on and after July 1, 1992, and before July 1, 1993, that shall  
18 be paid for occupational disease and the results thereof under this  
19 chapter or under any combination of the provisions of this chapter may  
20 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

21 (r) The maximum compensation with respect to disability or death  
22 occurring on and after July 1, 1993, and before July 1, 1994, that shall  
23 be paid for occupational disease and the results thereof under this  
24 chapter or under any combination of the provisions of this chapter may  
25 not exceed one hundred ninety-seven thousand dollars (\$197,000) in  
26 any case.

27 (s) The maximum compensation with respect to disability or death  
28 occurring on and after July 1, 1994, and before July 1, 1997, that shall  
29 be paid for occupational disease and the results thereof under this  
30 chapter or under any combination of the provisions of this chapter may  
31 not exceed two hundred fourteen thousand dollars (\$214,000) in any  
32 case.

33 (t) The maximum compensation that shall be paid for occupational  
34 disease and the results of an occupational disease under this chapter or  
35 under any combination of the provisions of this chapter may not exceed  
36 the following amounts in any case:

37 (1) With respect to disability or death occurring on and after July  
38 1, 1997, and before July 1, 1998, two hundred twenty-four

- 1           thousand dollars (\$224,000).
- 2           (2) With respect to disability or death occurring on and after July
- 3           1, 1998, and before July 1, 1999, two hundred thirty-four
- 4           thousand dollars (\$234,000).
- 5           (3) With respect to disability or death occurring on and after July
- 6           1, 1999, and before July 1, 2000, two hundred forty-four thousand
- 7           dollars (\$244,000).
- 8           (4) With respect to disability or death occurring on and after July
- 9           1, 2000, **and before July 1, 2001**, two hundred fifty-four
- 10          thousand dollars (\$254,000).
- 11          **(5) With respect to disability or death occurring on and after**
- 12          **July 1, 2001, and before July 1, 2002, two hundred sixty-nine**
- 13          **thousand dollars (\$269,000).**
- 14          **(6) With respect to disability or death occurring on and after**
- 15          **July 1, 2002, two hundred eighty thousand dollars (\$280,000).**
- 16          (u) For all disabilities occurring before July 1, 1985, "average
- 17          weekly wages" shall mean the earnings of the injured employee in the
- 18          employment in which the employee was working at the time of the last
- 19          exposure during the period of fifty-two (52) weeks immediately
- 20          preceding the last day of the last exposure divided by fifty-two (52). If
- 21          the employee lost seven (7) or more calendar days during the period,
- 22          although not in the same week, then the earnings for the remainder of
- 23          the fifty-two (52) weeks shall be divided by the number of weeks and
- 24          parts thereof remaining after the time lost has been deducted. Where
- 25          the employment prior to the last day of the last exposure extended over
- 26          a period of less than fifty-two (52) weeks, the method of dividing the
- 27          earnings during that period by the number of weeks and parts thereof
- 28          during which the employee earned wages shall be followed if results
- 29          just and fair to both parties will be obtained. Where by reason of the
- 30          shortness of the time during which the employee has been in the
- 31          employment of the employer or of the casual nature or terms of the
- 32          employment it is impracticable to compute the average weekly wages
- 33          as above defined, regard shall be had to the average weekly amount
- 34          which, during the fifty-two (52) weeks previous to the last day of the
- 35          last exposure, was being earned by a person in the same grade
- 36          employed at the same work by the same employer, or if there is no
- 37          person so employed, by a person in the same grade employed in that
- 38          same class of employment in the same district. Whenever allowances

1 of any character are made to an employee in lieu of wages or a  
2 specified part of the wage contract, they shall be deemed a part of the  
3 employee's earnings.

4 (v) For all disabilities occurring on and after July 1, 1985, "average  
5 weekly wages" means the earnings of the injured employee during the  
6 period of fifty-two (52) weeks immediately preceding the disability  
7 divided by fifty-two (52). If the employee lost seven (7) or more  
8 calendar days during the period, although not in the same week, then  
9 the earnings for the remainder of the fifty-two (52) weeks shall be  
10 divided by the number of weeks and parts of weeks remaining after the  
11 time lost has been deducted. If employment before the date of disability  
12 extended over a period of less than fifty-two (52) weeks, the method of  
13 dividing the earnings during that period by the number of weeks and  
14 parts of weeks during which the employee earned wages shall be  
15 followed if results just and fair to both parties will be obtained. If by  
16 reason of the shortness of the time during which the employee has been  
17 in the employment of the employer or of the casual nature or terms of  
18 the employment it is impracticable to compute the average weekly  
19 wages for the employee, the employee's average weekly wages shall be  
20 considered to be the average weekly amount that, during the fifty-two  
21 (52) weeks before the date of disability, was being earned by a person  
22 in the same grade employed at the same work by the same employer or,  
23 if there is no person so employed, by a person in the same grade  
24 employed in that same class of employment in the same district.  
25 Whenever allowances of any character are made to an employee  
26 instead of wages or a specified part of the wage contract, they shall be  
27 considered a part of the employee's earnings.

28 (w) The provisions of this article may not be construed to result in  
29 an award of benefits in which the number of weeks paid or to be paid  
30 for temporary total disability, temporary partial disability, or permanent  
31 total disability benefits combined exceeds five hundred (500) weeks.  
32 This section shall not be construed to prevent a person from applying  
33 for an award under IC 22-3-3-13. However, in case of permanent total  
34 disability resulting from a disablement occurring on or after January 1,  
35 1998, the minimum total benefit shall not be less than seventy-five  
36 thousand dollars (\$75,000).

37 SECTION 9. IC 22-3-7-20 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) After

1       disablement and during the period of claimed resulting disability or  
2       impairment, the employee, if so requested by the employee's employer  
3       or ordered by the worker's compensation board, shall submit to an  
4       examination at reasonable times and places by a duly qualified  
5       physician or surgeon designated and paid by the employer or by order  
6       of the board. The employee shall have the right to have present at any  
7       such examination any duly qualified physician or surgeon provided and  
8       paid for by the employee. No fact communicated to or otherwise  
9       learned by any physician or surgeon who may have attended or  
10      examined the employee, or who may have been present at any  
11      examination, shall be privileged either in the hearings provided for in  
12      this chapter, or in any action at law brought to recover damages against  
13      any employer who is subject to the compensation provisions of this  
14      chapter. If the employee refuses to submit to, or in any way obstructs  
15      the examinations, the employee's right to compensation and right to  
16      take or prosecute any proceedings under this chapter shall be  
17      suspended until the refusal or obstruction ceases. No compensation  
18      shall at any time be payable for the period of suspension unless in the  
19      opinion of the board, the circumstances justified the refusal or  
20      obstruction. The employee must be served with a notice setting forth  
21      the consequences of the refusal under this subsection. The notice must  
22      be in a form prescribed by the worker's compensation board.

23       (b) Any employer requesting an examination of any employee  
24       residing within Indiana shall pay, in advance of the time fixed for the  
25       examination, sufficient money to defray the necessary expenses of  
26       travel by the most convenient means to and from the place of  
27       examination, and the cost of meals and lodging necessary during the  
28       travel. If the method of travel is by automobile, the mileage rate to be  
29       paid by the employer shall be the rate as is then currently being paid by  
30       the state to its employees under the state travel policies and procedures  
31       established by the department of administration and approved by the  
32       state budget agency. If the examination or travel to or from the place of  
33       examination causes any loss of working time on the part of the  
34       employee, the employer shall reimburse the employee for the loss of  
35       wages upon the basis of such employee's average daily wage.

36       (c) When any employee injured in Indiana moves outside Indiana,  
37       the travel expense and the cost of meals and lodging necessary during  
38       the travel, payable under this section, shall be paid from the point in

1 Indiana nearest to the employee's then residence to the place of  
2 examination. No travel and other expense shall be paid for any travel  
3 and other expense required outside Indiana.

4 (d) A duly qualified physician or surgeon provided and paid for by  
5 the employee may be present at an examination, if the employee so  
6 desires. In all cases, where the examination is made by a physician or  
7 surgeon engaged by the employer and the disabled or injured employee  
8 has no physician or surgeon present at the examination, it shall be the  
9 duty of the physician or surgeon making the examination to deliver to  
10 the injured employee, or the employee's representative, a statement in  
11 writing of the conditions evidenced by such examination. The  
12 statement shall disclose all facts that are reported by the physician or  
13 surgeon to the employer. This statement shall be furnished to the  
14 employee or the employee's representative as soon as practicable, but  
15 not later than thirty (30) days before the time the case is set for hearing.  
16 The statement may be submitted by either party as evidence by that  
17 physician or surgeon at a hearing before the worker's compensation  
18 board if the statement meets the requirements of subsection ~~(f)~~ (g). If  
19 the physician or surgeon fails or refuses to furnish the employee or the  
20 employee's representative with such statement thirty (30) days before  
21 the hearing, then the statement may not be submitted as evidence, and  
22 the physician shall not be permitted to testify before the worker's  
23 compensation board as to any facts learned in the examination. All of  
24 the requirements of this subsection apply to all subsequent  
25 examinations requested by the employer.

26 **(e) No representative of the employer or insurance carrier,**  
27 **including case managers or rehabilitation nurses, may be present**  
28 **at any examination of an employee with an occupational disease**  
29 **without the express written consent of the employee and the**  
30 **treating medical personnel. At the time of any medical examination**  
31 **that a representative of the employer wishes to attend, the**  
32 **representative of the employer shall inform the employee with an**  
33 **occupational disease and treating medical personnel that their**  
34 **written consent is required before the attendance of the employer's**  
35 **representative. The employee's compensation and benefits may not**  
36 **be jeopardized in any way due to the employer's failure or refusal**  
37 **to complete a written waiver allowing the attendance of the**  
38 **employer's representative. The employer's representative may not**

1     **in any way cause the employee to believe that the employee's**  
 2     **compensation and benefits will be terminated if the employee fails**  
 3     **or refuses to complete a written waiver allowing the attendance of**  
 4     **the employer's representative. The written waivers shall be**  
 5     **executed on forms prescribed by the board.**

6     ~~(e)~~ (f) In all cases where an examination of an employee is made by  
 7     a physician or surgeon engaged by the employee, and the employer has  
 8     no physician or surgeon present at such examination, it shall be the  
 9     duty of the physician or surgeon making the examination to deliver to  
 10    the employer or the employer's representative a statement in writing of  
 11    the conditions evidenced by such examination. The statement shall  
 12    disclose all the facts that are reported by such physician or surgeon to  
 13    the employee. The statement shall be furnished to the employer or the  
 14    employer's representative as soon as practicable, but not later than  
 15    thirty (30) days before the time the case is set for hearing. The  
 16    statement may be submitted by either party as evidence by that  
 17    physician or surgeon at a hearing before the worker's compensation  
 18    board if the statement meets the requirements of subsection ~~(f)~~ (g). If  
 19    the physician or surgeon fails or refuses to furnish the employer or the  
 20    employer's representative with such statement thirty (30) days before  
 21    the hearing, then the statement may not be submitted as evidence, and  
 22    the physician or surgeon shall not be permitted to testify before the  
 23    worker's compensation board as to any facts learned in such  
 24    examination. All of the requirements of this subsection apply to all  
 25    subsequent examinations made by a physician or surgeon engaged by  
 26    the employee.

27    ~~(f)~~ (g) All statements of physicians or surgeons required by this  
 28    section, whether those engaged by employee or employer, shall contain  
 29    the following information:

- 30       (1) The history of the injury, or claimed injury, as given by the
- 31       patient.
- 32       (2) The diagnosis of the physician or surgeon concerning the
- 33       patient's physical or mental condition.
- 34       (3) The opinion of the physician or surgeon concerning the causal
- 35       relationship, if any, between the injury and the patient's physical
- 36       or mental condition, including the physician's or surgeon's reasons
- 37       for the opinion.
- 38       (4) The opinion of the physician or surgeon concerning whether

the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

~~(g)~~ (h) Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such an action shall be construed as delivery to the employer or employee.

~~(h)~~ (i) Any party may object to a statement on the basis that the statement does not meet the requirements of subsection ~~(e)~~ (f). The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection ~~(f)~~ (g).

~~(i)~~ (j) The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the board orders an autopsy and the autopsy is refused by the surviving spouse or next of kin, in this event any claim for compensation on account of the death shall be suspended and abated during the refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in discharge of the coroner's duties, shall be held in any case by any person without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity shall be given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by the autopsy shall be suspended on

- 1 motion duly made to the board."
- 2 Renumber all SECTIONS consecutively.  
(Reference is to HB 1413 as introduced.)

**and when so amended that said bill do pass.**

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Representative Liggett